

**Notice of Allowability**

Application No.

10/019,194

Examiner

Traviss C McIntosh

Applicant(s)

SMIRNOV ET AL.

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 11/4/2003.
2. ☒ The allowed claim(s) is/are 11-16 and 34-44.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

**JAMES O. WILSON**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 1600**

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Herbert Goodman on March 5, 2004.

The application has been amended as follows:

Claim <sup>3</sup>~~13~~ (currently amended): An anthocyanic colorant composition prepared from a corn vegetable pulp comprising cyanidin glycosides, peonidin glycosides, organic substances, mineral salts, and pelargonidin glycosides, wherein component percentages are as follows:

	percent
cyanidin glycoside	0.1-8.6
peonidin glycoside	0.08-6.45
pelargonidin glycoside	0.05-4.3
organic substance and mineral salts	the balance,

wherein its natural red color is retained when it is exposed to an acid environment having a pH from 2.0 to less than 7.0.

Art Unit: 1623

4

Claim ~~14~~ (currently amended): An anthocyanic colorant composition prepared from a corn vegetable pulp comprising cyanidin glycosides, peonidin glycosides, organic substances, mineral salts, and pelargonidin glycosides, wherein component percentages are as follows:

	percent
cyanidin glycoside	0.1-8.6
peonidin glycoside	0.08-6.45
pelargonidin glycoside	0.05-4.3
organic substance and mineral salts	the balance,

wherein the ratio of pelargonidin glycosides : peonidin glycosides : cyanidin glycosides is 1:1.5:2, and wherein the relative optical density is highest when it is exposed to direct light with a wavelength of 505-515 nm, and wherein its natural red color is retained when it is exposed to an acid environment having a pH from 2.0 to less than 7.0.

5

Claim ~~15~~ (currently amended): An anthocyanic colorant composition prepared from a corn vegetable pulp comprising cyanidin glycosides, peonidin glycosides, organic substances, mineral salts, and pelargonidin glycosides, wherein component percentages are as follows:

	percent
cyanidin glycoside	0.1-8.6
peonidin glycoside	0.08-6.45
pelargonidin glycoside	0.05-4.3
organic substance and mineral salts	the balance,

wherein 80-100% of its natural color density is retained when exposed to freezing, boiling, direct solar radiation, and/or an acid environment having a pH of from 2 to 4.

<sup>6</sup>  
Claim ~~16~~ (currently amended): An anthocyanic colorant composition prepared from a corn vegetable pulp comprising cyanidin glycosides, peonidin glycosides, organic substances, mineral salts, and pelargonidin glycosides, wherein component percentages are as follows:

	percent
cyanidin glycoside	0.1-8.6
peonidin glycoside	0.08-6.45
pelargonidin glycoside	0.05-4.3
organic substance and mineral salts	the balance,

wherein the ratio of pelargonidin glycosides : peonidin glycosides : cyanidin glycosides is 1:1.5:2, and wherein the relative optical density is highest when it is exposed to direct light with a wavelength of 505-515 nm, and wherein 80-100% of its natural color density is retained when exposed to freezing, boiling, direct solar radiation, and/or an acid environment having a pH of from 2 to 4.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traviss C McIntosh whose telephone number is 571-272-0657. The examiner can normally be reached on M-F 9:30-6:00.

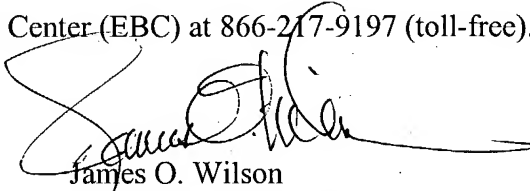
Application/Control Number: 10/019,194  
Art Unit: 1623

Page 5

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Traviss C. McIntosh III  
March 5, 2004



James O. Wilson  
Supervisory Patent Examiner  
Art Unit 1623